

# Exhibit 4

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

-----x  
DR. ALAN SACERDOTE, et al.,

Plaintiff,

vs.

Case No.  
16-Civ-6284 (KBF)

NEW YORK UNIVERSITY,

Defendant.

-----x

DEPOSITION OF MARK CRISPIN MILLER

New York, New York

November 15, 2017

12:12 p.m.

Reported by:  
ERICA L. RUGGIERI, RPR  
JOB NO: 52342

1 M. MILLER

2 A. I don't know.

3 Q. Do you know how, if at all,  
4 she personally violated any alleged  
5 fiduciary duty as it is to you --  
6 fiduciary duty as related to you?

7 A. I don't know.

8 Q. But you named her as a  
9 named defendant in this litigation?

10 A. Right.

11 Q. But you don't know what she  
12 did or how she acted or whether or  
13 not she breached a fiduciary duty?

14 A. Well, she's a member of the  
15 committee whose performance is at  
16 issue. So she's been named for that  
17 reason.

18 Q. Are you aware that  
19 Ms. Ellis, as well as Ms. Casey,  
20 Mr. Dorph, Mr. Burke and all the  
21 other named plaintiffs were already  
22 sought by your counsel to be added  
23 to the litigation that we are in  
24 right now?

25 A. I believe I knew that.

1 M. MILLER

2 Q. In fact, that was part of  
3 the proposed amended complaint that  
4 went with their motion to amend?

5 A. Right. Yes.

6 Q. And you are aware that the  
7 court in this case has already  
8 considered that -- those members and  
9 has dismissed those members as  
10 possible defendants?

11 A. I did not know that, no.

12 Q. And you are aware that --  
13 did you know that this decision was  
14 made before this new complaint was  
15 filed?

16 A. No, I didn't know that.

17 Q. Had you had known that  
18 these individual defendants that you  
19 now name in this new complaint had  
20 already been dismissed as improperly  
21 amended -- attached or -- strike  
22 that. Let me rephrase it again and  
23 make it clear for you.

24 Had you known that this court  
25 had already considered these named

1 M. MILLER

2 defendants, Mr. Bing, Mr. Burke, et  
3 cetera, and has already determined  
4 that they were not properly added to  
5 the complaint, would you have still  
6 filed this litigation knowing that  
7 order?

8 MR. BUMB: Object to form.

9 A. I would have discussed the  
10 question with my lawyers, you know,  
11 decided on that basis.

12 Q. But you didn't have an  
13 opportunity to discuss that before  
14 this was filed?

15 A. No. I suppose I didn't  
16 have an opportunity.

17 Q. Is it customary for you to  
18 allow your name to be put on a  
19 federal lawsuit and having not read  
20 the complaint or known about the  
21 contents of the complaint?

22 A. I put my faith in the law  
23 firm that's handling this matter. I  
24 can't say it's customary for me to  
25 do that because this is the first

1 M. MILLER

2 time I have ever been involved in a  
3 lawsuit like this.

4 Q. So just to clarify, so this  
5 complaint that was filed under your  
6 name was filed without discussing  
7 the contents of it with you?

8 A. That would be an  
9 overstatement. The lawyers let us  
10 know that they were doing this in a  
11 general way. They didn't get into  
12 the specifics of individuals' names  
13 and so on.

14 Q. But you weren't aware that  
15 the names that were listed from the  
16 retirement committee and the  
17 retirement committee itself were  
18 already considered and dismissed by  
19 the court?

20 A. I did not know that, no.

21 Q. And were -- are you aware  
22 that the complaint, the new  
23 complaint that was filed, raises  
24 similar issues that had already been  
25 dismissed by the court as well?

1 M. MILLER

2 A. Yes, I knew that. I mean I  
3 didn't know that the business about  
4 the individuals being dismissed from  
5 the first version but the rest of it  
6 I knew.

7 Q. Like one of the complaints  
8 that was made that was dismissed in  
9 this first round -- this first  
10 litigation was issues related to  
11 institutional versus retail share  
12 classes. Are you aware that that  
13 count and those complaints are  
14 already dismissed as part of the  
15 last motion to dismiss?

16 A. There was one count that  
17 was dismissed; is that right?

18 Q. With relation to the  
19 institutional share class.

20 A. Yeah. I can't say I  
21 remember that specific designation.

22 Q. Do you know what  
23 allegations in the complaint were  
24 dismissed?

25 A. No.

1 M. MILLER

2 Q. Did you discuss with your  
3 counsel why you were bringing those  
4 claims again against these committee  
5 members even though they had already  
6 been considered by the court and  
7 dismissed?

8 A. I did not.

9 MR. BUMB: I'm going to  
10 object. Attorney-client privilege.  
11 Instruct the witness not to answer.

12 Q. Are you aware that there  
13 are allegations in this complaint  
14 that mirror allegations in the new  
15 complaint -- in the old complaint  
16 that have been considered and  
17 dismissed?

18 A. That strikes me as to be  
19 expected.

20 Q. You would expect that  
21 issues that had already been  
22 considered and dismissed would be  
23 allowed to be brought back in in a  
24 new lawsuit?

25 A. Well, I would expect that



1 M. MILLER

2 such allegations could be rephrased.

3 Q. Do you know what new facts  
4 were alleged in this new complaint  
5 that would make those issues now  
6 viable?

7 A. I don't know.

8 Q. Turning back -- we don't  
9 need that anymore.

10 Turning back to the current  
11 litigation, the one that we are here  
12 to discuss today. When did you hire  
13 Schlichter to be your counsel in  
14 this lawsuit?

15 A. Well, I agreed to join the  
16 lawsuit in June of 2016.

17 Q. Did you reach out to them  
18 or did Schlichter reach out to you?

19 A. That's a good question. I  
20 heard about this from a colleague  
21 and I already had my concerns about  
22 the retirement plan. And I guess I  
23 let her know that I would be willing  
24 to join as a named plaintiff.

25 Q. Do you remember who this

1  
2 STATE OF NEW YORK )

3 ss.:

4 COUNTY OF NEW YORK )

5  
6 I, ERICA L. RUGGIERI, RPR and.  
7 a Notary Public within and for the  
8 State of New York, do hereby  
9 certify:

10 That I reported the  
11 proceedings in the within-entitled  
12 matter, and that the within  
13 transcript is a true record of such  
14 proceedings.

15 I further certify that I am  
16 not related by blood or marriage, to  
17 any of the parties in this matter  
18 and that I am in no way interested  
19 in the outcome of this matter.

20 IN WITNESS WHEREOF, I have  
21 hereunto set my hand this 16th day  
22 of November, 2017.

23   
24

25 ERICA L. RUGGIERI, RPR, CSR, CLR